



ARKANSAS JUDICIARY

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## Rule 36. Requests For Admission.

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney. However, a defendant shall have 30 days after service of the request or 45 days after he has been served with the summons and complaint to answer, whichever time is longer. These time periods may be shortened or lengthened by the court. If objection is made, the reasons therefor shall be stated. The party answering requests for admissions shall repeat each request immediately before the answer or objection. The answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pre-trial conference or at a designated time prior to trial. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

If an attorney for a party to whom requests for admission are addressed signs an answer, his

signature shall be deemed his oath as to the correctness of the answer and his specific authority to bind the party on whose behalf he signs.

(b) Effect of Admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subverted thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose, nor may it be used against him in any other proceeding.

(c) Separate Document. Requests for admissions must be filed in a separate document so titled and shall not be combined with interrogatories, document production requests, or any other material.

Reporter's Notes (as modified by the Court) to Rule 36: - 1. Rule 36 is similar to FRCP 36. Prior Arkansas law was found in superseded Ark. Stat. Ann. 28-358 (Repl. 1962) which tracked the Federal Rule prior to its 1970 amendments. This rule does effect certain changes in Arkansas law. One major change is the extension of time to respond to requests to a full 30 days. Additionally, the rule expands the scope of matters which may be determined through the use of requests to include statements and opinions of fact.

Addition to Reporter's Notes, 1982 Amendment: - The fourth sentence of the second paragraph of Rule 36(a) was added.

Addition to Reporter's Notes, 1983 Amendment: - The words "or the application of law to fact" have been added in the first sentence of Rule 36(a).

The second paragraph of Rule 36(a) has been amended to permit an attorney to sign, on behalf of his client, a response to a request for admission. The last paragraph of Rule 36(a) has been added to establish the effect of the attorney's signature.

The word "Rule" has been added to the last sentence of the third paragraph of Rule 36(a).

Additions to Reporter's Notes, 1984 Amendments: - Rule 36(a) is amended by stating separately the power of the court to shorten or lengthen the response time and by changing the third sentence of the second paragraph to make it clear that a party responding to admissions requests must do so within 30 days after the requests are served or 45 days after service of the summons and complaint, whichever period is longer.

Addition to Reporter's Note, 1986 Amendment: - Under new subsection (c), it is impermissible to combine requests for admissions with interrogatories or other discovery devices. The amendment is consistent with the practice followed in the Arkansas federal courts. See Rule 15(e), Rules of the U.S. District Courts for the Eastern and Western Districts of Arkansas (as amended effective May 1, 1985).

### **History Text:**

History. Amended February 22, 1982; amended May 16, 1983; amended July 9, 1984, effective September 1, 1984; amended November 11, 1991, effective January 1, 1992

### **Associated Court Rules:**

Rules of Civil Procedure

**Group Title:**

V. Depositions and Discovery

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